



Planning & Land Use Department

Town of Barrington

PO Box 660

333 Calef Highway

Barrington, NH 03825

603.664.0195

(C) 603.312.4468

barrplan@metrocast.net

barrplan@gmail.com

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MEMO

From: Marcia J. Gasses, Town Planner & Land Use Administrator

2013 Zoning Ordinances Text Amendments

Presented as approved by the Barrington Planning Board on 1/15/2013

By far most of the edits are of formatting and clerical corrections. These edits generally account for the overwhelming majority of edits. Formatting edits usually take one of three forms:

- (1) “bulleting” of items to numeric indexing, that is, changing the undifferentiated item markers to differentiated numeric markers;
- (2) deconstructing (parsing) large blocks of text into smaller constituent parts and assigning the resultant items with numeric indices; and
- (3) Indexing previously unmarked provisions (those without either index or bullet) provisions.


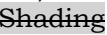
Occasionally, formatting edits may require the insertion of transition phrasing for readability. However, formatting revisions create no change in standards, dimensions, rights, duties or the relative importance of any provision of the Ordinance. The purpose of all formatting change is to increase clarity, readability, facilitate referencing and enhance internal consistency in the presentation of the Ordinance’s provisions.

Clerical corrections address grammatical or spelling corrections as well as stylistic issues such as the removal of repetitions and/or unnecessary wording and relocation of language. Clerical corrections will not alter the meaning, intent or effect of the application of any provision. In addition clerical corrections occur when a revision in one provision requires changes in various places in the Ordinance. For instance, in this session of editing there is a change at **2.1** in the designation of a zoning district from “Village District” to “Village” with a concomitant change in the acronym from “VD” to “V.” This results in a series of clerical corrections in various places in the Ordinance where the designations are used.)

Less frequently occurring edits are those of substance. In such edits there can be the insertion of new material into the Ordinance or deletion of material from the Ordinance. Such edits can create a change in standards, dimensions or the rights and duties of residents of Barrington. Further, such edits can alter the responsibilities and functions of the various Boards, Committees and Town Agents whose duties and operations are covered in the Ordinance.

(Note: There are two new provisions; **5.2.2: Permitted Expansion into Setbacks and Buffers for Accommodation of Physical Disabilities** and **5.4: Permitted Restoration for Certain Non-Conforming Structures**)

Editing notation:

- 1) Removed text is given in ~~strikethrough~~ font.
- 2) Inserted or added text in **bolded font**.
- 3)  These bullet indicators do not show the strikethrough clearly and are shaded to indicate deletion. (It is the intention of this editing session to remove all bulleted entries and replace them with numeric indexing unless the entry is clearly intended to be an undifferentiated list.)
- 4)  ~~Shading~~ will be used with strikethrough whenever the item to be deleted is small and easily overlooked.
- 5) ***Bold Italic*** along with font change will be used when the edited material is itself bolded in the pre-edit form.
- 6) **Parse:** Means the deconstruction of blocks of text into constituent parts with the assignment of numeric indexing.
- 7) **Bullets to numeric indexing:** Means removal of the “bullet” indicators (○→) and the insertion of numeric indicators in their place.
- 8) **Side by Side:** When the above editing methods present considerable reading difficulty the material under consideration will be presented with the old text on the left and the proposed or revised text on the right.
- 9) Before each proposed “edit” a comment section will provide specific editing explanations.

ARTICLE 1 - GENERAL PROVISIONS

Comment on 1.3: Formatting - Parsing edit. Words are deleted without material effect. There is one word substitution; "Community" replaces "Barrington" for consistency.]

1.3 Applicability

In general, the purpose of this Ordinance is to provide for the safe, harmonious and manageable development of the Town of Barrington. More specifically, this Ordinance is intended:

- 1.3(1)** To promote the health, safety, welfare and prosperity of the community;
- 1.3(2)** To safeguard natural resources such as ponds, lakes, rivers, streams, wetlands, forests and aquifers;
- 1.3(3)** To preserve the essential character and quality of life in ~~Barrington~~ **the community**; and
- 1.3(4)** To protect property values;
- 1.3(5)** To foster the reasonable and judicious use of land for commercial and industrial purposes compatible with the community's interests.
- 1.3(6)** ~~Furthermore these regulations are intended to~~ To promote energy efficient patterns of development and the use of other renewable forms of energy and energy conservation.

*Comment on 1.4: Formatting - Parsing edit. The edit separates the body text into two sections; indexed as **1.4 & 1.5**. There are no wording changes.*

1.4 Authority and Severability

This Ordinance is adopted pursuant to the authority conferred by New Hampshire State Statutes (RSAs 674:16-21 as amended), and any other applicable provisions of state law.

1.5 Severability

In the event that any of the terms or provisions of this Ordinance are declared invalid or unenforceable by any Court of competent jurisdiction or any Federal or State Government Agency having jurisdiction over the subject matter of this Ordinance, the remaining terms and provisions that are not affected thereby shall remain in full force and effect.

Comment on (Old Index 1.5 & Revised Index 1.6) – Formatting - bullets to numeric indexing. (Bullet indicator do not show the strikethrough clearly and are shaded to indicate deletion. This practice will used as needed.)

~~1.5~~ **1.6 Interpretation**

The provisions of this Ordinance shall be interpreted as minimum requirements adopted for the promotion of the public health, safety and welfare and other purposes noted above.

- **1.6(1)** Should conflict exist between or among standards or requirements within this Ordinance, then whichever imposes the more stringent standard or requirement shall control.
- **1.6(2)** Within this Ordinance words or phrases not specifically defined the Definitions Article are to be given their common and generally accepted meaning.

ARTICLE 2 – ZONING DISTRICTS

*Comment on 2.1: This item is presented in ~~strike through~~ font for deleted wording and **bold font** for inserted wording. The bolded & shaded text is added for specificity and clarity.*

2.1 Establishment of Zoning Districts

For the purposes of this Ordinance the Town of Barrington is divided into five (5) base zoning districts. ~~All of the area within the municipal boundaries of the town is considered to be located within one of these five districts as identified on the Official Zoning Map. These districts shall be referred to by the following designations:~~ **Each zoning district is identified on the Official Zoning Map. All of the area within the municipal boundaries is located in one of these five base districts.**

The designations for the zoning districts are as follows:

- General Residential (GR)
- Neighborhood Residential (NR)
- ~~Village District (VD)~~ **Village (V)**
- Regional Commercial (RC)
- Town Center (TC) (Added March 2008)

In addition to these base zoning districts, this Ordinance also establishes the provisions of a series of overlay zoning districts that function in concert with the base zoning districts. ~~These overlay districts may or may not occur within all parts of the town and are intended to regulate the use of specific features or characteristics of the community. Where an overlay zoning district coincides with all or any part of a base zoning district, the regulations for the Where the extent of an overlay district coincides with the extent of a base district the regulations for both districts shall be applied. These districts shall be referred to by the following designations:~~ **These overlay zoning districts are intended to regulate the use of specific environmental features or other characteristics or uses. Where an overlay zoning district coincides with all or any part of a base zoning district, the regulations for the base zoning district and the overlay zoning district shall be applied to the coincident area.**

The designations for the overlay zoning districts are as follows:

- Wetlands Protection District Overlay (WDO)
- Shoreland Protection District Overlay (SDO)
- Floodplain Management District Overlay (FDO)
- Groundwater Protection District Overlay (GDO)
- Wireless Communications Facilities Overlay (WCO)
- Highway Commercial District Overlay (HCO)

Comment on 2.2.3 Village (v) – For consistency - name change for Village District

2.2.3.....~~Village District (VD)~~ Village (V)

2.2.3(1) The Village District is intended to promote mixed use development at higher densities in order to provide a centralized location for regular community interaction as well as convenient opportunities for the purchase of goods and services by town residents. The regulations are intended to allow opportunities for creating apartments above commercial establishments and multifamily senior housing developments that would be in close proximity to municipal and school facilities and provide a base of consumer support for small-scale commercial establishments in the district. The site design and landscaping standards applied to development in this district should reflect the guidelines recommended in the 2004 Master Plan as well as other land use regulations adopted by the town.

2.2.3(2) Development in this district should promote an environment that facilitates pedestrian access both within the ~~VD~~ **Village** district as well as into adjoining zoning districts.

Comment on Changes for Article 3 and Section 3.1 – Formatting – Text relocation. Move body text from Article 3 to Section 3.1. Since the only change involved here is location, the Text is not reproduced for review.

Comment on 3.1.4: Parsing edit.

3.1.4 Impact Fees for Public Capital Facilities

3.1.4(1) No building permit shall be issued for any development which can be lawfully conducted under the terms of this Ordinance unless the required impact fee(s) has been assessed and/or collected, as prescribed in Article 14.

3.1.4(2) No certificate of occupancy shall be issued for any development which can be lawfully conducted under the terms of this Ordinance unless the required impact fee(s) has been collected, as prescribed in Article 14.

Comment on 3.1.8: Parsing Edit.

3.1.8 Signage

3.1.8(1) Compliance Requirements - No sign shall be constructed, erected or otherwise placed in any zoning district unless said sign is in compliance with the standards specified in the town's Site Plan Review Regulations.

3.1.8(2) Removal of Signs - The Code Administrator, or other town personnel designated by the Town Administrator, shall cause to be removed any sign placed on or over any public right-of-way or public property that is not in compliance with the standards and provisions of this ordinance, the Town of Barrington Site Plan Regulations, the Town of Barrington Subdivision Regulations and/or any other regulation lawfully adopted by the Town of Barrington.

3.1.8(3) Signs as Abandoned Property - Where such sign is removed, it shall be deemed to be abandoned and may be disposed of by the town as abandoned property.

Comment on 3.3.4: To create consistency in the reference to zoning district names and acronyms. Provide full index references

3.3.4 Village District

3.3.4(1) (Unchanged)

3.3.4(1)(a) Non-Residential Uses Permitted – New or expanded development in the ~~VD~~ **Village** district *(Continuing text unchanged.)*

3.3.4(1)(b) (Unchanged)

Comment on 3.3.5: Formatting – assigned indices, reorder the presentation, lead wording has been bolded. The substance of the material is unchanged..

3.3.5 Regional Commercial District Adopted 03/08/05

~~1) No residential structures are permitted within five hundred (500) feet of the centerline of Route 125 and Route 4 for properties located in the RC District.~~

3.3.5(1) Mixed Use Development (refer to Article 18 for definition)

~~(a)~~ **3.3.5(2) Non-Residential Uses Permitted** – New or expanded development in the RC district may combine any non-residential uses otherwise permitted in this district as part of a mixed use development unless otherwise specified herein. This means that multiple primary structures, such as a retail store, professional or business office building, and light manufacturing facility, for example, may be combined on a single lot provided the proposed development can comply with all other applicable requirements of this ordinance. Such a development must also comply with the design guideline standards set forth in the Site Plan Review regulations, as well as all other applicable town and state regulations

3.3.5(3) Residential Uses Excluded -

3.3.5(3)(a) No residential structures are permitted within five hundred (500) feet of the centerline of Route 125 and Route 4 for properties located in the RC District.

3.3.5(3)(b) Residential dwelling units, with the exception of accessory dwelling units, may not be included as part of a mixed use development in the RC district.

Comment on 3.4: Bullets to numeric indexing. Full numeric for each element.

3.4 Conditional Use Permits Issued by Planning Board

Following a public hearing on the proposed use, which may be combined with a public hearing held for a subdivision or site plan review application, the Planning Board may issue a Conditional Use Permit, if it finds, based on the information and testimony submitted with respect to the application, that conditions presented in this Section have been met. Granting of a Conditional Use Permit shall authorize the applicant to apply for a building permit and/or certificate of occupancy once all other applicable town, state and federal requirements have been complied with, including subdivision and/or site plan review approval.

→**3.4(1)** The building, structure or use is specifically authorized under the terms of this Ordinance.

→**3.4(2)** If completed, the development in its proposed location will comply with all requirements of this Ordinance, and with specific conditions or standards established in this Section for the particular building, structure or use.

→**3.4(3)** The building, structure or use will not materially endanger the public health or safety.

→**3.4(4)** The building, structure or use will not substantially de-value abutting property.

→**3.4(5)** The building, structure or use will be compatible with the neighborhood and with adjoining or abutting uses in the area in which it is to be located.

→**3.4(6)** The building, structure or use will not have a substantial adverse impact on highway or pedestrian safety.

→**3.4(7)** The building, structure or use will not have a substantial adverse impact on the natural and environmental resources of the town.

→**3.4(8)** Adequate public utilities, community facilities, and roadway capacity are available to the property to ensure that the proposed use will not necessitate excessive public expenditures in providing public services.

→**3.4(9)** Where deemed necessary when considering an application for Conditional Use approval, the Planning Board may require that adequate visual buffers be established.

ARTICLE 4 – DIMENSIONAL REQUIREMENTS

Table 2 currently nested below 3.4

Table 2 moved to follow Subsection 4.1.1 Minimum Standards

Comment on 4.1.3: Parses a complex paragraph into its elements and gives each a unique index reference.

4.1.3 Back Lots

For residential subdivisions, up to two (2) back lots may be allowed, notwithstanding the frontage requirements specified in the Table of dimensional Standards.

4.1.3(1) The parcel must have at least fifty (50) feet of frontage on an existing Class V or better road.

4.1.3(2) If there are two (2) back lots, the ownership of the neck and frontage shall be owned equally by both back lots.

4.1.3(3) The area of the neck cannot be used in any way to calculate the minimum lot size.

4.1.3(4) Back lots are not allowed off of cul-de- sacs.

4.1.3(5) Driveways must be centered in this neck as much as possible and the neck kept clear and maintained for safety.

4.1.3(6) A permanent road agreement will be executed, shown on the plan and recorded in the deed of each lot.

Comment on 4.2.2: Strikethrough and insertion provides consistency in district names. Bolding used for lead words or phrases. Full numeric indexing for each element. Minor word change in the last sentence of 4.2.2(8).

4.2.2 Standards for the VD Village District

4.2.2(1) Minimum Lot Size, Non-residential – The minimum lot size for nonresidential uses in the ~~VD~~ **Village** district is 30,000 sq. ft. unless otherwise specified herein, however, said lot must be of adequate size, as specified by the New Hampshire Department of Environmental Services (NHDES) regulations, to safely accommodate an on-site septic system and/or water supply system. Community wastewater and/or water supply systems may be employed in this district for mixed use developments provided they are in compliance with NHDES requirements.

4.2.2(2) Accessory Dwelling Unit - For commercial buildings containing Accessory Dwelling Units the minimum lot size shall be increased in accordance with NHDES requirements based on the number of bedrooms contained in said unit(s).

4.2.2(3) Minimum Lot Size, Multifamily Housing – The minimum lot size for multifamily housing developments shall be 80,000 sq. ft. for the first unit, which must include 35,000 sq. ft. of contiguous upland area. Each additional dwelling shall require 10,000 sq. ft. of upland area per dwelling unit. This minimum shall be increased if necessitated by the requirements of the NHDES for installation of on-site septic systems and/or water supply systems.

4.2.2(4) Minimum Lot Size, Single Family and Duplex - The minimum lot size for single-family or duplex dwelling units must comply with the provisions of Subsection 4.2.1 of this ordinance, which are the same requirements for constructing a single-family dwelling in the GR and NR districts, as well as all other applicable provisions.

4.2.2(5) Maximum Building Size, Non-Residential - Non-residential structures shall not exceed a footprint of 50,000 sq. ft. in size, subject to the following exception. A non-residential building footprint may be larger than 50,000 sq. ft. if a Conditional Use Permit is granted by the Planning Board (see Section 3.4), and said structures is also in compliance with design guidelines prescribed in the Site Plan Review Regulations.

4.2.2(6) Architectural Requirements - All non-residential structures must comply with the architectural guidelines prescribed in the Site Plan Review Regulations.

4.2.2(7) Buffer for Existing Residential Uses – Any proposed non-residential development that abuts a parcel containing an existing residential structure(s) must have a buffer of at least fifty (50) feet between the existing residential structure(s) and the proposed non-residential structure(s). Said buffer shall contain sufficient vegetation or other barrier (e.g. fencing) that will provide visual screening between the adjoining land uses. Said buffer may include portions of the existing residential lot if adequate screening already exists there.

4.2.2(8) Greenbelt Buffer Required - A greenbelt buffer of fifty (50) feet from the edge of the right-of-way shall be maintained along the frontage of parcels on Route 125 and Route 9, in which no development, storage, parking, or paving shall be permitted (except as necessary to provide access or signage). The greenbelt may be left in its natural state if sufficiently vegetated, as to provide a visual barrier or planted to provide a visually attractive vegetated area. Lots of records as of March 9, 1999 are exempt from this provision to the extent that conformance is impossible, however, any such lot must conform as fully as possible ~~with~~ **to** these buffer provisions.

Article 5 -- Nonconforming Lots, Structures, and Uses

Comment on 5.1.4: Rewording of the LLA for Non-Conforming lots circumstances and provides references.

5.1.4 Lot Line Adjustments Involving Non-Conforming Lots (3/9/2010)

Lot line adjustments involving one or more contiguous lots, of which one or more lots are nonconforming in area, are permitted only in the following circumstances if **one of the two following set of circumstances exists:**

1) The lot line adjustment does not create a new violation of the zoning ordinance or increase an existing nonconformity; and the lot line adjustment does not result in a change of the total area of any of the involved lots; and the lot line adjustment does not decrease the size of a nonconforming lot or render a conforming lot nonconforming.

Or

2) The lot line adjustment does not create a new violation of the zoning ordinance or increase an existing nonconformity; and the lot line adjustment results in an increase in the size of one or more nonconforming lots; and the lot line adjustment does not decrease the size of a nonconforming lot or render a conforming lot nonconforming.

5.1.4(1) The first set of circumstances being:

5.1.4(1)(a) → The lot line adjustment does not create a new violation of the zoning ordinance or increase an existing nonconformity; and

5.1.4(1)(b) → The lot line adjustment does not decrease the size of a nonconforming lot or render a conforming lot nonconforming; and

5.1.4(1)(c) → The lot line adjustment does not result in a change of the total area of any of the involved lots.

5.1.4(2) The Second set of circumstances being:

5.1.4(2)(a) → The lot line adjustment does not create a new violation of the zoning ordinance or increase an existing nonconformity; and

5.1.4(2)(b) → The lot line adjustment does not decrease the size of a nonconforming lot or render a conforming lot nonconforming; and

5.1.4(2)(c) The lot line adjustment results in an increase in the size of one or more nonconforming lots.

Comment on 5.2.1: Edit provides for a limited expansion into the setbacks and/or buffers for specific reasons. Word deletions and insertions as indicated. Replace each partial numeric index with full numeric index.

5.2.1 Permitted Expansion for Certain Nonconforming Structures

5.2.1(1)→ Any lawfully-existing nonconforming structure may be enlarged or expanded if such an expansion can be executed in compliance with all setbacks, height limitations and other dimensional requirements of this Ordinance and does not make the building or structure less conforming than its present configuration, except as provided for in ~~Paragraph 5.2.1(2)~~ below.

5.2.1(2)→ Notwithstanding any other provisions to the contrary, a lawful nonconforming structure may be expanded into a setback area by the addition of an unenclosed stoop, open deck or stairs, provided the same do not extend more than 8 feet into the required ~~front, side or rear~~ setbacks **or buffers** and provided further that at least 15 feet remain between the exterior of the addition and the nearest lot line.

Comment on 5.2.2: (A NEW PROVISION)

Provides for limited expansion into the setbacks and buffers for accessibility ramps for the disabled. ZBA approval required if expansion into setbacks or buffers exceeds the limits set in this provision.

5.2.2 Permitted Expansion into Setbacks and Buffers for Accommodation of Physical Disabilities

5.2.2(1)→Notwithstanding any other provisions to the contrary a structure may be expanded into a setback area by the addition of an accessibility ramp when reasonable accommodations are necessary to allow a person or persons with a recognized physical disability to reside in or regularly use the premises, provided the same do not extend more than 8 feet into the required setbacks or buffers and provided further that at least 15 feet remain between the exterior of the addition and the nearest lot line.

~~5.2.2~~ **5.2.3 Special Exception for Accessibility Additions/Structures** *Comment: Indexing change due to the new provision at 5.2.2.*

Comment on 5.3: Formatting – Bullets to numeric indexing.

5.3 Nonconforming Uses

Where on the effective date of adoption of this Ordinance or applicable amendment, a lawful use of land exists which would not be permitted by the regulations imposed by this Ordinance, the use may be continued so long as it remains otherwise lawful, and is in compliance with the following provisions of this section:

☛ **5.3(1)** A nonconforming use may not be changed to another nonconforming use, extended or enlarged to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance, except as provided for in Subsection 5.3.5 below.

☛ **5.3(2)** No such nonconforming use shall be moved, in whole or in part, to any portion of the lot other than that occupied by such use at the effective date of adoption or amendment of this Ordinance.

☛ **5.3(3)** Once changed to a conforming use, no structure or land shall revert to a nonconforming use.

☛ **5.3(4)** A nonconforming use that has been discontinued for a period of one (1) year shall not be resumed or replaced by any other nonconforming use.

*Comment on 5.4: **New Provision Inserted** – Addresses losses to non-conforming structure.*

5.4 Permitted Restoration for Certain Non-Conforming Structures

Any lawfully existing non-conforming structure which is partially or totally destroyed by reason of fire, natural disaster or other act of God may be restored, remodeled and operated if such restoration, remodel or operation is begun within a 2 year period of the date of the loss, providing, however, that the elements of non-conformity are no greater than those previously existing prior to the loss as described herein for that structure.

ARTICLE 6 -- CONSERVATION SUBDIVISIONS

Comment on 6.1: Formatting – Bullets to numeric indexing.

6.1 Purpose

The 2004 Master Plan contains strategic objectives that recommend implementing changes in municipal regulations that encourage future land development activities to set aside more open space for the purposes of maintaining the town's character, protecting key natural resource features, preserving wildlife habitat, and creating recreation opportunities for residents. In an effort to achieve these and other related objectives of the Master Plan, the regulations contained in this Article are intended to encourage the preservation of open space by promoting greater flexibility in the design of residential subdivisions than would otherwise be possible following conventional subdivision practice. All proposals for development of a Conservation Subdivision in Barrington should be designed to achieve as many of the objectives listed below as possible given the specific characteristics of the site under consideration.

- 6.1(1)** To maintain and protect Barrington's rural character by preserving important landscape elements, including those areas containing such unique and environmentally sensitive natural features as unfragmented woodlands, stream corridors, wetlands, floodplains, shorelands, steep slopes, ridgetops, and critical species habitat by setting them aside from development.
- 6.1(2)** To preserve scenic views and to minimize views of new development from existing streets.
- 6.1(3)** To provide for comprehensive site planning of larger tracts of land in order to facilitate better site design concepts that are compatible with the existing natural features and terrain in order to minimize disturbance of landscape elements.
- 6.1(4)** To increase flexibility and efficiency in the siting of services and infrastructure by reducing street length, utility requirements, drainage requirements, and the amount of paved surfaces, where possible.
- 6.1(5)** To permit active and passive recreational use of open space by residents of the proposed development and/or by the general public.
- 6.1(6)** To promote the preservation of large blocks or corridors of protected open space by "linking" together smaller individual open space areas on adjoining parcels.
- 6.1(7)** To reduce erosion and sedimentation by the retention of existing vegetation and the minimization of development on steep slopes.
- 6.1(8)** To permit various means of owning open space and for protecting it from development in perpetuity.
- 6.1(9)** To implement the objectives of the Barrington Master Plan.

Comment on 6.2.6: Formatting - Provided full numeric index for two elements in this text. This formatting provision was voted forward to the Town Meeting. However, the proposed added provision (not to count the 100 ft buffer as part of open space) was not accepted.

6.2.6 Perimeter Buffer

6.2.6(1)→All Conservation Subdivisions must have a perimeter buffer setback of one hundred (100) feet around the entire tract that may not contain any structures or individual house lots. The buffer should provide a visual screen from exterior roads by either retaining existing woodlands or by planting additional landscaping that is considered sufficient to provide such screening.

Comment on 6.3.2: Formatting – Inserts index reference for each paragraph.

6.3.2 Site Inventory and Conceptual Development Plan Required

6.3.2(1) All applications to the Planning Board for a Conservation Subdivision shall be accompanied by a Site Inventory that identifies existing natural and man-made features that represent the landscape character of the tract. This inventory shall be used by the developer and the Planning Board in determining which features of the site are most important to preserve as part of the proposed development. The specific information that must be presented in the Site Inventory is contained in the town's development regulations (subdivision and site review).

6.3.2(2) Prior to submission of an engineered/surveyed plat plan for a Conservation Subdivision, as required in the town's Subdivision and/or Site Plan Review Regulations, all applicants shall submit a Conceptual Development Plan for consideration by the Planning Board. Said Conceptual Development Plan shall show the general location of proposed roadways, lots, open space and buffers, as well as the significant features that have been identified as part of the Site Inventory. The purpose of this pre-application plan review is to insure that the development's proposed open space is shaped around the significant natural, cultural and historic features located on the site.

6.3.2(3) For comparison purposes, the Planning Board may also require an applicant to submit a second Conceptual Development Plan that illustrates a conventional subdivision layout, based on the town's zoning and subdivision standards, for a non-clustered development on the proposed site. The purpose of this second plan would be to insure that the number of dwelling units proposed for the Conservation Subdivision does not exceed the maximum number of dwelling units allowed as specified in Subsection 6.4 of this Ordinance.

Comment on 6.4.1: Formatting - Full index references are inserted for each paragraph.

6.4.1 Calculating Net Developable Area

The Net Developable Area is the calculated acreage that remains after deducting the area pertaining to the following features from the total tract area.

6.4.1(1) One hundred percent (100%) of all surface water bodies.

6.4.1(2) Seventy-five percent (75%) of all Hydric A and fifty percent (50%) of Hydric B soils.

6.4.1(3) Slope restrictions as follows:

6.4.1(3)(a) One hundred percent (100%) of slopes greater than twenty-five percent (25%);

6.4.1(3)(b) Twenty-five percent (25%) of slopes between fifteen percent (15%) and twenty-five percent (25%).

6.4.1(4) One hundred percent (100%) of all existing and proposed street rights-of-way.

Comment on 6.4.3: (During the meeting a duplication of material was noted and removed) The Board voted to reject the proposed % changes and the effect is to have 6.4.3 remain unchanged except to insert the full numeric indexing to paragraph 6.4.3(1).

6.4.3 Calculating Net Density in the NR and VD Districts

6.4.3(1) Divide the Net Developable Area, as calculated in Subsection 6.4.1, by 60,000 sq. ft. The resulting number is the total number of units permitted on the development tract. However, under no circumstances shall the number of units permitted on the development tract exceed by twenty percent (20%) the number of units that would otherwise be permitted in a conventional subdivision within this district, based on the customary and reasonable application of the density standards prescribed in Section 4.2 of this Ordinance.

6.4.3(2) If the required open space is dedicated for public use, then the Net Density shall be calculated by dividing the Net Developable Area, as calculated in Subsection 6.4.1, by 40,000 sq. ft. However, under no circumstances shall the number of units permitted on the development tract exceed by thirty percent (30%) the number of units that would otherwise be permitted in a conventional subdivision within this district, based on the customary and reasonable application of the density standards prescribed in Section 4.2 of this Ordinance. This increase in density may be granted in accordance with State Statute 674:21, Innovative Land Use Controls which allows for use and intensity incentives to be provided by a community and which, under these regulations, would be given in exchange for public use of said property. No developer or property owner may be required to dedicate land for public use under this alternative and may instead elect to develop the property using the standard density calculation method described in Paragraph **6.4.3(1)**, or as a conventional subdivision.

6.4.3(3) In order to qualify for the density bonus described in Paragraph 2), the Planning Board must determine that the proposed public open space is suitable to meet the goals of the Master Plan and other applicable recreation, open space, and capital facilities objectives of the community. Ownership of the public open space will be a factor considered by the Planning Board in evaluating the merits of the proposed development.

6.4.3(4) Where the calculation of either Paragraphs 1) or 2) results in a fraction of a unit, and the fraction is one-half (1/2) or greater, the number of units may be rounded to the next larger whole number.

ARTICLE 7 – SUPPLEMENTAL REGULATIONS

Comment on 7.1.7: Formatting - Parse body text into indexed paragraphs

7.1.7 Waste Disposal

7.1.7(1) No waste material, garbage or refuse shall be disposed of, or allowed to remain on-site for extended periods of time.

7.1.7(2) Temporary storage of such wastes must be in appropriate refuse containers.

7.1.7(3) No waste materials, garbage or refuse shall be dumped or allowed to remain in such a condition as to result in, or be reasonably likely to result in, scattering due to wind or precipitation, leakage into the ground or other discharge or run-off.

7.1.7(4) Upon written complaint from the town's representative, the violator shall promptly remove all waste materials. In the event that the waste material, garbage, or refuse is left from a construction project, the issuance of a certificate of occupancy may be withheld until this material is removed.

7.1.7(5) This section shall not be construed to prohibit the on-site disposal of stumps in conformity with state law.

Comment on 7.3: Formatting – Bullets to numeric indexing

7.3 Home Occupation

In zoning districts that permit the establishment of home occupations, all such uses must comply with the following provisions. If the Zoning Administrator determines that the proposed use is in compliance with all of the following provisions, authorization for the home occupation may be granted by the Building Inspector without review by the Planning Board. The proposed use must also comply with all other applicable local, state and federal regulations.

- ☛ **7.3(1)** A home occupation may only be conducted within a detached single-family dwelling.
- ☛ **7.3(2)** Not more than one (1) home occupation may be carried on in a dwelling.
- ☛ **7.3(3)** No more than thirty percent (30%) of the dwelling's net living area shall be devoted to such use.
- ☛ **7.3(4)** There shall be no display of goods or wares visible from the street except that one (1) unlighted sign, which is no larger than four (4) square feet in size, may be placed on the property.
- ☛ **7.3(5)** Not more than one (1) commercial vehicle related to said home occupation shall be stored on the premises.
- ☛ **7.3(6)** The building or premises containing said home occupation shall not be rendered objectionable or detrimental to the residential character of the neighborhood because of exterior appearance, traffic, emission of odor, smoke, dust, noise, on-site storage of hazardous materials as determined by the Barrington Fire Department.
- ☛ **7.3(7)** A certificate of occupancy for the proposed use shall be issued by the Building Inspector once verification with all the preceding standards is confirmed.

Comment on 7.4: Formatting – Bullets to numeric indexing

7.4 Home Business

In zoning districts that permit the establishment of home businesses all such uses must receive a Conditional Use Permit from the Planning Board for said use. At a minimum, the Planning Board must determine that all of the following conditions have been met before such a permit may be authorized. The proposed use must also comply with all other applicable local, state and federal regulations.

7.4(1) All home businesses must receive a Conditional Use Permit and Site Plan approval from the Planning Board.

7.4(2) Before granting a conditional use permit the Planning Board must determine that the proposed structure(s), location, and size of the parcel, are of a suitable scale, appearance, and character that are compatible with the surrounding development and neighborhood where the use is proposed.

7.4(3) A home business may only be conducted as an accessory use to a detached single-family dwelling located on the same property.

7.4(4) Not more than one (1) home business may be established on a property.

7.4(5) No more than two (2) non-residents of the property may be employed within a home business.

7.4(6) The use may be conducted in a separate accessory building but said building shall contain no more than 2,500 square feet of total floor space.

7.4(7) The home business shall be totally conducted within the designated accessory structure but may occupy an area outside said structure if this area is adequately screened with fencing or a vegetative buffer. In no case shall the activities of the home business, both inside and outside the accessory structure, occupy more than 4,500 square feet.

7.4(8) There shall be no display of goods or wares visible from the street except that one (1) unlighted sign, which is no larger than four (4) square feet in size, may be placed on the property.

7.4(9) Not more than two (2) commercial vehicles related to said home business shall be stored on the premises.

7.4(10) The building or premises containing said home business shall not be rendered objectionable or detrimental to the residential character of the neighborhood because of exterior appearance, traffic, emission of odor, smoke, dust, noise, on-site storage of hazardous materials as determined by the Barrington Fire Department.

7.4(11) A certificate of occupancy for the proposed use shall be issued by the Building Inspector once verification with all the preceding standards is confirmed

Comment on 7.5.2 & 7.5.3: Corrects a typing error. The Subsection index 7.5.3 was given at the end of the previous subsection instead of as the lead to its proper subsection.

7.5.2 Fence Design

The finished side of a fence shall face outward from the property on which the fence is located. The side of a fence containing the post or poles or other bracing shall face inward to the property being fenced in or on which the fence is located. ~~7.5.3 Fence Siting.~~

7.5.3 FENCE SITING

On a corner lot, fences shall be subject to the vision clearance provisions of Subsection 7.1.8 of this Ordinance

ARTICLE 8 – HIGHWAY COMMERCIAL DISTRICT OVERLAY (HCO)

Comments on 8.1: Formatting – Parse of body text into indexed paragraphs.

8.1 Purpose and Intent

8.1(1) The purpose of the Highway Commercial District Overlay is to support the development of appropriate levels of commercial development along portions of the state highways located in Barrington and to provide alternative opportunities for promoting economic development within the town.

8.1(2) This overlay district is established with the recognition that the areas adjacent to these state highways represent a “transitional zone” that presents

limitations and constraints for the development of both residential and non-residential users. Therefore, this district is intended to provide flexibility in evaluating the suitability of each property based upon the specific site characteristics and constraints of individual parcels while also attempting to minimize conflicts with existing residential development in the affected area.

Comments on 8.2: Formatting – Parse of body text into indexed paragraphs. (Note – consider using full name of the Overlay District in the defining provision. At least be consistent in the usage.)

8.2 District Defined

8.2(1) The Highway Commercial District Overlay (HCO) zone includes parcels of land that have frontage on the portions of State Highway Routes 202, 9, and 126 that are located within the boundaries defined on the Official Zoning Map.

8.2(2) The boundaries illustrated on the Zoning Map are intended to indicate that the HCO includes all land area within seven hundred and fifty (750) feet of the centerline of said highways.

8.2(3) Only parcels that have frontage on these state highways shall be considered to be included in the HCO zoning district and subject to all applicable regulations set forth in this Article.

8.2(4) If a parcel is split by the HCO district boundary the use of the respective portions of the parcel shall be determined based on the criteria specified in Subsection 2.1.2 of this Ordinance.

Comments on 8.5: Formatting – Parse of body text into indexed paragraphs.

8.5 Greenbelt Buffer Required

8.5(1) A greenbelt buffer of fifty (50) feet from the edge of the right-of-way shall be maintained along the frontage of parcels located in the HCO district, in which no development, storage, parking, or paving shall be permitted (except as necessary to provide access or signage).

8.5.2 The greenbelt may be left in its natural state if sufficiently vegetated, as to provide a visual barrier or planted to provide a visually attractive vegetated area.

8.5.3 Lots of records as of March 9, 1999 are exempt from this provision to the extent that conformance is impossible, however, any such lot must conform as fully as possible with these buffer provisions.

Comments on 8.6: Formatting – Parse of body text into indexed paragraphs.

8.6 Approvals Required

8.6(1) All non-residential development that is permitted in the HCO district, as specified in the Table of Uses, must also receive a Conditional Use Permit from the Planning Board as outlined in Section 3.4 of this Ordinance.

8.6(2) In addition to a Conditional Use Permit, all proposals for the development of non-residential and multifamily uses that are otherwise permitted in the HCO district shall also be subject to the provisions of the town's Site Plan Review Regulations.

ARTICLE 9 – WETLANDS PROTECTION DISTRICT OVERLAY (WPO)

Comments on 9.1: Formatting – Bullets to numeric indexing.

9.1 Purpose and Intent

The general purpose of this District is to preserve and protect the many wetland areas in Barrington for the benefit of public health, safety and welfare. The intent of this section is to restrict the use of wetland areas and their buffers to promote the following goals:

→**9.1(1)** Prevent the pollution of surface waters and groundwater;

→**9.1(2)** Prevent the dewatering of wetlands;

- ☞**9.1(3)** Prevent adverse impact to wetlands that provide flood protection, recharge of groundwater supply, augmentation of stream flow during dry periods, habitat for plants, fish or wildlife, or commerce, recreation or aesthetic enjoyment; and
- ☞**9.1(4)** Permit those uses that can be appropriately and safely located in wetlands and their buffers areas.

Comment on 9.2: : Formatting – Parse of body text into indexed paragraphs

9.2 Wetlands Defined

- 9.2(1)** For the purposes of this Ordinance, “wetlands” means an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions.
- 9.2(2)** Wetlands generally include, but are not limited to, swamps, marshes, bogs, and similar areas. In accordance with New Hampshire Department of Environmental Services and United States Army Corps of Engineers requirements, jurisdictional wetlands are to be identified and delineated using the 1987 Corps of Engineers Wetlands Delineation Manual. Jurisdictional wetlands are to be delineated by a New Hampshire certified wetland scientist or a New Hampshire certified soil scientist.

Comment on 9.3: : Formatting – Parse of body text into indexed paragraphs

9.3 Prime Wetlands

- 9.3(1)** In conjunction with the definition of wetlands in Section 9.2, the Town of Barrington has also delineated a special classification of wetlands referred to as Prime Wetlands, in accordance with state statutes authorizing such designation.
- 9.3(2)** The approximate boundaries of Prime Wetlands located in Barrington are illustrated on tax maps dated January 1991, along with an accompanying report entitled Prime Wetlands Report, Town of Barrington, New Hampshire, January 1991, which identifies the important values and critical functions that are provided by these wetlands.
- 9.3(3)** The Prime Wetland maps and report are on file at the Barrington Town Offices as well as the offices of the New Hampshire Department of Environmental Services (NHDES).

Comment on 9.3.1: Formatting – Parse of body text into indexed paragraphs

9.3.1 Delineation of Prime Wetland Boundaries

On any parcel of land where development is proposed, and that also contains a Prime Wetland as identified in the town’s study cited in Section 9.6, or as designated by the town at any time thereafter, the applicant applying for said development approval shall be required to delineate the area of all Prime Wetlands on plans submitted to the town.

- 9.3.1(1)** Since the Town adopted its Prime Wetland designation prior to January 1, 1992, the edge of the Prime Wetland shall be considered to be the areas where one hundred percent (100%) of the soils are Hydric A, which also have the presence of hydrophytic vegetation and wetlands hydrology.
- 9.3.1(2)** The procedures and standards for mapping said Prime Wetlands shall be done in {, comma deleted} accordance with the methods prescribed in this Ordinance, as well as the town’s Subdivision and/or Site Plan Review Regulations, for mapping any jurisdictional wetlands.
- 9.3.1(3)** If the boundary of a Prime Wetland is contested, the applicant may present data and evidence to the NHDES and to the Barrington Conservation Commission relative to the correct location of the boundary. In the event of a dispute, the final delineation shall be determined by the NHDES based on the data and evidence submitted.

Comments on 9.4: Formatting – Bullets to numeric indexing & Parse body text of the last bullet in indexed subparagraphs.

9.4 Permitted Uses and Structures

The uses and structures listed in Paragraphs 1) through 5) of this Section, and no others, except as provided for in Subsection 9.5.1, are permitted in

wetlands and their buffer areas but only if the Planning Board determines that such a use or structure: is consistent with the purposes expressed in Section 9.1; does not involve substantial alteration of the surface configuration of the land; and will not result in a significant net loss of values associated with the functions of the wetland.

☞**9.4(1)** Forestry/tree farming; and

☞**9.4(2)** Agriculture, including grazing, farming, truck gardening and harvesting of crops; but not including the stockpiling of manure or other activities or practices that could contaminate surface water or groundwater; and

☞**9.4(3)** Drainage ways: streams, creeks or other paths or normal runoff water; and

☞**9.4(4)** Open space, wildlife refuges, conservation areas, nature trails and passive recreational uses; and

☞**9.4(5)** Culverts, footbridges, catwalks and wharves only, provided that:

9.4(5)(a) The structures ~~are~~ **shall be** constructed on posts or pilings so as to permit the unobstructed flow of water; and

9.4(5)(b) The natural contours of the wetland ~~are~~ **shall be** preserved.

Comment on 9.5: Formatting – Parse body text & Bullets to numeric indexing.

9.5 Wetland Buffer Areas Required (3/9/2010)

9.5(1) A buffer area of fifty (50) feet is required from the edge of any wetland. If a vernal pool is determined to be located on a site a greater buffer may be required by the Planning Board.

9.5(2) In the case of a Prime Wetland a minimum buffer of one hundred (100) feet shall be required from the edge of the wetland. The Planning Board may require a larger buffer around a Prime Wetland if an assessment of its functions indicates that such an increase is warranted to protect the roles the wetland serves that are of value to the public or the environment including, but not limited to, flood water storage, flood water conveyance, groundwater recharge and discharge, erosion control, wave attenuation, water quality protection, scenic and aesthetic use, food chain support, fisheries, wetland plant habitat, aquatic habitat and wildlife habitat.

9.5(3) Within any required wetland buffer, including by way of example and not by way of limitation, no structures, impermeable surfaces, parking spaces, or construction-related activities, including dredging, filling, and re-grading, shall be permitted, except as noted in Subsection 9.5.1 below.

9.5(4) The following features shall not be construed as wetlands with regard to designating buffer areas under the provisions of this Ordinance.

9.5(4)(a) Manmade ditches and swales

9.5(4)(b) Sedimentation/detention basins or ponds.

9.5(4)(c) Manmade agricultural/irrigation ponds and swales

9.5(4)(d) Fire ponds and cisterns

9.5(4)(e) A septage or manure lagoon

9.5(4)(f) Silage pits

9.5(4)(g) An isolated wetland or surface water of 3,000 square feet or less that does not meet the definition of a swamp, marsh, bog or vernal pool

Comment on 9.6: Formatting – Bullets to numeric indexing.

9.6 Special Permit for Construction in a Wetland Buffer

A use not otherwise permitted in the wetlands buffer may be undertaken if the Planning Board approves an applicant's request for a Special Use Permit, provided such use is in keeping with the intent and purposes set forth in this Ordinance as permitted in the base zoning district and meets the standards listed below. (Reference – RSA 674:21 II)

9.6(1) After a review of all reasonable alternatives it is determined to be infeasible to place the structure outside of the buffer zone.

9.6(1)(a) The structure must be set back as far as possible from the delineated edge of the wetland or surface water;

9.6(1)(b) Appropriate erosion control measures must be in place prior to and during construction.

9.6(1)(c) Any disturbance to the surrounding buffer zone must be repaired and restored upon completion of construction; and

9.6(1)(d) All available mitigation measures to address changes in water quality and quantity be implemented, along with design and construction methods to minimize adverse impacts, if required by the Planning Board.

ARTICLE 10 – WIRELESS COMMUNICATIONS FACILITIES OVERLAY (WCO)

Comment on 10.2: Formatting – Bullets to numeric indexing.

10.2 Standards

Wireless Communication Facilities shall be permitted in all Districts, and shall be subject to Subsection 7.1 (Performance Standards) of this Ordinance as well as the standards listed below.

10.2(1) The use poses no unreasonable risk of harm to the health, safety or welfare of abutters or the public;

10.2(2) The use will not diminish the value of neighboring properties;

10.2(3) By its nature and design or by the use of visual buffers (vegetative or topographical), the use will not substantially alter the character of the area where applicable, or its utility for residential uses; and

10.2(4) The use will be consistent with the spirit and intent of this Ordinance.

Comment on 10.4: Formatting – Bullets to numeric indexing.

10.4 Dimensional Requirements

10.4(1) The maximum height of any new Wireless Communication Facility will not exceed one hundred and fifty (150) feet.

10.4(2) The height of any Wireless Communication Facility shall not increase the height of any existing structure by more than ten (10) feet unless it is completely camouflaged. The increase in height shall be in scale and proportion to the existing structure.

10.4(3) Ground mounted Wireless Communication Facilities shall not project higher than twenty (20) feet above the top of the tree canopy and one hundred (100) foot perimeter of the mount shown on the accepted application in an effort to more effectively blend into the surrounding terrain by not projecting above the surrounding tree canopy. The measurement will begin from the cleared area of the accepted application **plan**.

10.4(3)(a) A stamped as-built plan certifying the top of the tree canopy will be required before final approval of the plan.

10.4(3)(b) The buffer around the cleared area must be located on the property where the tower is to be located or an easement for the buffer must be put in place to ensure that it remains as represented at the time of approval. This easement could be on abutting properties where the buffer shown on the plan was located.

10.4(4) All Wireless Communication Facilities, equipment shelters, and fences shall comply with the setback requirements of the district in which they are located, unless otherwise stated. Any Wireless Communication Facilities requiring structures such as shelters, cabinets or other buildings must put crushed gravel, stone, or stone base within the fenced in area and at least fifteen (15) feet beyond the fence on all sides. This restricted area must be free of all vegetation.

10.4(5) No Wireless Communication Facility, equipment shelter or fence shall be constructed within seventy-five (75) feet of any wetlands.

10.4(6) In order to ensure public safety, the minimum distance from the base ground-mount of a Wireless Communication Facility to any property line, public road, dwelling, business or recreational use shall be at a minimum, the distance equal to the fall zone. This distance may cross property lines, so long as applicant secures an easement from the affected property owners. The area of the easement shall be shown on all applicable plans submitted to the town, and the terms of the easement shall be provided as part of the site plan.

Comment on 10.5: Formatting – Bullets to numeric indexing.

10.5 Lighting Signage

10.5(1) The lighting on the mount of Wireless Communication Facilities shall be allowed only if, and as, required by the Federal Aviation Administration (FAA).

10.5(2) Any lighting of equipment structures or other facilities on site shall be completely shielded from above and from abutting properties.

10.5(3) Signage shall be limited to those needed to identify the property and owners, and to warn of danger.

10.5(3)(a) Signs warning of danger shall be mounted on the security fence as needed.

10.5(3)(b) A sign identifying the owner along with an emergency phone number shall be mounted on the fence by the entrance door.

10.5(3)(c) The signs cited in subparagraphs (a) and (b) above shall not exceed four (4) square feet. No lighting shall be allowed on fences or signs.

Comment on 10.6: Formatting - Parse body text

10.6 Bonding

10.6(1) Recognizing the extremely hazardous situation presented by abandoned and unmonitored towers, the Planning Board shall set the form and the amount of security that represents the cost for removal and disposal of towers in the event that the tower is abandoned and the tower owner is incapable or unwilling to remove the tower.

10.6(2) The amount of the security shall be based upon the removal cost plus fifteen (15) percent. A professional civil engineer, licensed by the State of New Hampshire, shall determine this amount.

10.6(3) The owner of the facility shall provide the Planning Board with a revised removal estimate and structural evaluation every five (5) years from the date of the approval of the site plan. If the cost of removal has increased more than fifteen (15) percent, the owner shall provide additional security in the amount of the increase.

Comment on 10.7: Formatting – Parse body text into constituent parts, reorder the parts, and apply indexing and add lead words – Bullets to numeric indexing – Provide index for last paragraph..

10.7 Removal of Abandoned Antennas and Towers

~~Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned and hazardous to public health and safety. The owner shall notify the town by certified mail of his intent to abandon or discontinue use of this facility, thirty (30) days prior to the intended date of end of service. Upon abandonment or discontinued use, the owner of the facility shall physically remove the personal wireless facility within ninety (90) days.~~

~~“Physically remove” shall include, but not be limited to the following:~~

10.7.1 Notice of Discontinued Use

The owner shall notify the town by certified mail of his intent to abandon or discontinue use of this facility, thirty (30) days prior to the intended date of end of service.

10.7.2 Effective Abandonment

Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned and hazardous to public health and safety.

10.7.3 Discontinued Use / Abandonment

Upon abandonment or discontinued use, the owner of the facility shall physically remove the personal wireless facility within ninety (90) days. “Physically remove” shall include, but not be limited to the following:

- ☞ **10.7.3(1)** Removal of antennas, mounts, equipment shelters, foundations and security barriers from the property; and
- ☞ **10.7.3(2)** Properly dispose of the waste materials from the site in accordance with local and state waste disposal regulations; and
- ☞ **10.7.3(3)** Restoring the location of the facility to its natural condition, except that any landscaping and grading shall remain in the after condition.

ARTICLE 11 – SHORELAND PROTECTION DISTRICT OVERLAY (SDO)

Comment on 11.1: Formatting – Bullets to numeric indexing

11.1 Purpose and Intent

The purpose of the Shoreland Protection District is to preserve the overall quality of surface waters, and their adjacent environs, in the Town of Barrington in order to protect the public health and maintain the ecological integrity associated with these resources. More specifically, the intent of the regulations established in this Article are:

- ☞ **11.1(1)** Maintain the quality of surface waters to insure protection of groundwater and drinking water supplies;
- ☞ **11.1(2)** Conserve and protect the aquatic and terrestrial habitat associated with the town’s rivers, lakes and ponds;
- ☞ **11.1(3)** Preserve and enhance the aesthetic values associated with shoreline areas in order to maintain the town’s rural character; and
- ☞ **11.1(4)** Encourage those uses that can be appropriately located adjacent to the town’s surface water resources.

Comment on 11.2 Formatting – Parse body text

11.2 District Defined

11.2(1) No structure of any type, including by way of example and not by way of limitation, all buildings, garages, sheds, parking lots and driveways, may be constructed within seventy-five (75) feet of the shoreline of any year-round stream, or any lake or pond over two (2) acres.

11.2(2) For the Isinglass River this overlay zone shall consist of all properties located within one hundred (100) feet of the mean high water mark of the river, wherein no structure of any type including by way of example and not by way of limitation, all buildings, garages, sheds, parking lots, and driveways, may be constructed.

Comment on 11.3: Formatting – Assign numerical indices to text.

11.3 Exemptions from Regulations

11.3(1) Lots of record that existed prior to July 28, 1988 (~~which was~~ the effective date of the original version of this provision) are exempt from these shoreland setback provisions to the extent that it can be demonstrated that conformance is impossible; however, any structure on such lots must conform as fully as possible.

11.3(2) Exemptions to the setback provisions of Section 11.2 Paragraph (1) of this Article shall be made for the installation of docks, floats and other structures that are customarily associated with the recreational use of water.

ARTICLE 12 – GROUNDWATER PROTECTION DISTRICT OVERLAY (GPO)

Comment on 12.1: Formatting – Bullets to numeric indexing and Parsing and indexing of body text

12.1 Purpose and Intent

In the Town of Barrington, where water is drawn almost exclusively from wells, the protection of groundwater and the capability to recharge this water supply are issues of town-wide importance. Therefore, the intent of the Groundwater Protection District is to ~~address the need to~~ protect, preserve, and maintain groundwater resources within the town. The establishment of these regulations is also intended to address the following specific issues.

12.1(1) To protect the public health and general welfare of the citizens of Barrington;

12.1(2) To prevent development and land use practices that would contaminate or reduce the recharge of the groundwater supplies and aquifers;

12.1(3) To provide for future growth and development of the town, in accordance with the Master Plan, by ensuring the future availability of public and private water supplies; and

12.1(4) To encourage uses that can appropriately and safely be located in the groundwater and aquifer recharge areas.

12.1(4)(a) This Article is not intended to limit business growth within the town but is intended to regulate such development within groundwater protection areas through the implementation of Best Management Practices (BMP). Standards used by the town to determine BMPs shall include, but not be limited to, the sources listed below. This Article refers to, and adopts by reference, the BMP standards contained in the following reports and regulations.

12.1(4)(b) The New Hampshire Code of Administrative Rules, Part Env-Ws 421, Best Management Practices, as amended.

12.1(4)(c) Best Management Practices for Agriculture in New Hampshire, New Hampshire Department of Agriculture, Market and Food (May 2001), and subsequent revisions.

12.1(4)(d) Best Management Practices for Urban Stormwater Runoff, New Hampshire Department of Environmental Service (January 1996), as amended.

Comment on 12.2: Formatting – Assign indices and insert lead words as indicated

12.2 Groundwater Protection District Defined

The Groundwater Protection District consists of the entire area within the municipal boundaries of the town. However, there are specific portions of the town that have been identified as having the potential to yield higher quantities of groundwater. Therefore, the regulations presented in this Article are established

to protect groundwater quality on a town-wide basis as well as within this specifically defined Stratified Drift Aquifer area.

12.2.(1) Boundaries of the Stratified Drift Aquifer (SDA)

The boundaries of the Stratified Drift Aquifer (SDA) overlay areas are illustrated on the town's Official Zoning Map. The boundaries of the SDA are based on data developed by the United States Geological Survey, in cooperation with the New Hampshire Department of Environmental Services Water Division, as illustrated on the map entitled Drinking Water Resources and Potential Contamination Sources, Barrington, NH (October 2001).

Comments on 12.3: Formatting – Bullets to numeric indexing

12.3 Applicability and Exemptions

All non-residential development within the Town of Barrington must comply with the standards set forth in this Article.

12.3(1) Any business or facility where regulated substances are not stored in containers with a capacity of more than five (5) gallons is exempt from Performance Standards 3 through 6 in of Subsection 12.4.1.

12.3(2) All private residences are exempt from the provisions of this Article.

12.3(3) Any uses that existed before March 12, 2002 are exempt from the provisions of this Article. However, any pre-existing use that is changed to another use, expanded, extended, or enlarged shall be required to comply with all applicable standards of this Article, as well as the town's Site Review Regulations.

12.3(4) Storage of heating fuels for on-site use or fuels for emergency electric generation, provided that storage tanks are indoors on a concrete floor or have corrosion control, leak detection and secondary containment in place, is exempt from Performance Standards 3 through 6 in Subsection 12.4.1.

12.3(5) Storage of motor fuel in tanks attached to vehicles and fitted with permanent fuel lines to enable the fuel to be used by that vehicle is exempt from Performance Standard 3 through 6 in Subsection 12.4.1.

12.3(6) Storage and use of office supplies is exempt from Performance Standards 3 through 6 in Subsection 12.4.1.

12.3(7) Temporary storage of construction materials and fuel for equipment on a site not to exceed six months where they are to be used is exempt from Performance Standards 3 through 6 in Subsection 12.4.1.

12.3(8) The sale, transportation and use of pesticides as defined in RSA 430:29 XXVI, as amended, are exempt from all provisions of this ordinance.

12.3(9) Household hazardous waste collection projects regulated under New Hampshire Code of Administrative Rules (Env-Wm 401.03 (b) and 501.01 (b), as amended) are exempt from Performance Standards 3 through 6 in Subsection

12.3(10) Underground storage tank systems and aboveground storage tank systems that are in compliance with applicable state rules are exempt from inspections

ARTICLE 13 – FLOODPLAIN MANAGEMENT DISTRICT OVERLAY (FDO)

Comments: Edit – remove language that repeats provision 1.6(1) – Formatting: applies index reference to body text

13.1 Applicability

13.1(1) The regulations presented in this Article shall overlay and supplement the regulations of this Ordinance and shall be considered part of the Ordinance for purposes of administration and appeals under state law. ~~If any provision of these differ or appear to conflict with any provision of the Zoning Ordinance or other town ordinances or regulations, the provision imposing the greater restriction or more stringent standard shall be controlling.~~

13.1(2) The following regulations shall apply to all lands designated as special flood hazard areas by the Federal Emergency Management Agency (FEMA) in its Flood Insurance Study for Strafford County, New Hampshire, dated May 17, 2005 or as amended, together with the associated Flood Insurance Rate Map Panels number 0190, 0195, 0213, 0260, 0280, 0285, 0290[1], 0295, 0302, 0305, and 0315 of the Town of Barrington [FEMA community #330178] date May 17, 2005 or as amended, which are declared to be a part of this Ordinance and are hereby incorporated by reference.

Comments on 13.2: Formatting – Bullets to numeric indexing

13.2 Standards for Construction

All proposed development in any special flood hazard area shall require a permit. The Building Inspector shall review all building permit applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in a special flood hazard area, all new construction or substantial improvements shall comply with the following provisions:

- 13.2(1)** Designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy; and
- 13.2(2)** Constructed with materials resistant to flood damage; and
- 13.2(3)** Constructed by methods and practices that minimize flood damage; and
- 13.2(4)** Constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

Comments on 13.4: Formatting – Bullets to numeric indexing

13.4 Application Information Required

For all new or substantially improved structures located in special flood hazard areas, the applicant shall furnish the following information to the Building Inspector:

- 13.4(1)** The as-built elevation, in relation to National Geodetic Vertical Datum (NGVD) of the lowest floor (including the basement).
- 13.4(2)** Information regarding whether or not such structures contain a basement; if the structure has been flood-proofed, the as-built elevation (in relation to NGVD) to which the structure was flood-proofed.
- 13.4(3)** Any certification of flood-proofing. The Building Inspector shall maintain for public inspection, and shall furnish such information upon request.

Comments on 13.8: Formatting: Assign index reference to body text.

13.8 Requirements for Recreational Vehicles and Manufactured Housing

13.8(1) Recreational vehicles placed on sites within Zone A shall either be on the site for fewer than 180 consecutive days, be fully licensed and ready for highway use, or meet all standards of Section 60.3 (b) (1) of the National Flood Insurance Program Regulations and the elevation and anchoring requirements for “manufactured homes” in Paragraph (c) (6) of Section 60.3.

13.8(2) All manufactured homes to be placed or substantially improved within special flood hazard areas shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the 100 year flood elevation; and be securely anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

Comments on 13.8: Formatting: Assign index reference to body text.

ARTICLE 14 – IMPACT FEES FOR PUBLIC CAPITAL FACILITIES

COMMENTS on 14.1.1: Formatting – Parsing body text in constituent parts and indexing them; inserting language to assure clarity. Insert the Sector heading of General Provisions to create a holding section for the separate subsections of Authority & Applicability.

ARTICLE 14 – IMPACT FEES FOR PUBLIC CAPITAL FACILITIES

14.1 General Provisions

~~14.1 Authority and Applicability~~

14.1.1 Authority

14.1.1(1) This Article is authorized by New Hampshire RSA 674:21 as an innovative land use control.

14.1.1(2) The administration of this Article shall be the responsibility of the Planning Board.

14.1.2 Applicability

This Article, as well as regulations and studies adopted by the Planning Board consistent with and in furtherance of this Article, shall govern the assessment of impact fees imposed upon new development in order to meet the needs occasioned by that development for the construction or improvement of capital facilities owned or operated by the Town of Barrington or the Barrington School District.

2) **14.1.2(1)** The public facilities for which impact fees may be assessed in Barrington may include and are limited to water treatment and distribution facilities; wastewater treatment and disposal facilities; sanitary sewer; storm water, drainage and flood control facilities; public road systems and rights-of-way; municipal office facilities; public school facilities; public safety facilities; solid waste collection, transfer, recycling, processing and disposal facilities; public library facilities; and public recreation facilities not including public open space.

3) **14.1.2(1)(a)** Prior to assessing an impact fee for one or more of the public facilities enumerated above, the Planning Board shall have adopted such studies or methodologies and related fee schedules that provide for a process or method of calculating the proportionate share of capital improvement costs that are attributable to new development.

~~14.1.2(1)(b) Such calculations of impact fees shall reasonably reflect the capital cost associated with the increased demand placed on capital facility capacity by new development.~~

4) **14.1.2(1)(c)** The following **findings and the regulations predicated on those findings** shall govern the assessment of impact fees for public capital facilities in order to accommodate increased demand on the capacity of these facilities due to new development.

Comments on 14.2: Formatting – Bullets to numeric indexing. (Shading deleted items to ease identification.)

14.2 Findings

The Town of Barrington hereby finds that:

○→**14.2(1)** The Town of Barrington is responsible for and committed to the provision of public facilities and services at standards determined by the town to be necessary to support development in a manner that protects and promotes the public health, safety and welfare.

○→**14.2(2)** Capital facilities have been and will be provided by the town utilizing funds allocated through the Capital Improvements Program, which has been adopted and regularly updated by the Planning Board.

○→**14.2(3)** An impact fee ordinance for capital facilities is consistent with the goals and objectives of the Master Plan and the Capital Improvements Program of the Town of Barrington.

○→**14.2(4)** New development in Barrington will create the need for the construction, equipping, or expansion of public capital facilities in order to provide adequate facilities and services for its residents.

○→**14.2(5)** Impact fees may be used to assess an equitable share of the growth-related cost of public facility capacity to new development in proportion to the facility demands created by that development.

- 14.2(6)** In the absence of impact fees, anticipated residential and non-residential growth and associated capital improvement costs could necessitate an excessive expenditure of public funds in order to maintain adequate facility standards and to promote and protect the public health, safety, and welfare.
- 14.2(7)** Impact fees assessed pursuant to this Article shall be reasonably based upon the rationale for assessing the fees.
- 14.2(7)(a)** Impact fees established on the basis of providing additional public capital facilities necessitated by new development in Barrington shall not exceed the cost of such additional facilities.
- 14.2(7)(b)** Impact fees established on the basis of compensating the Town of Barrington or the Barrington School District for facility capacity that it provided in anticipation of new development in Barrington.

Comments on 14.3: Formatting - Parse – Body text to indexed paragraphs

14.3 Computation of Impact Fees

14.3(1) The amount of each impact fee shall be assessed in accordance with written procedures or methodologies adopted and amended by the Planning Board for the purpose of capital facility impact fee assessment in Barrington. These methodologies shall set forth the assumptions and formulas comprising the basis for impact fee assessment, and shall include documentation of the procedures and calculations used to establish impact fee schedules. The amount of any impact fee shall be computed based on the municipal capital improvement cost of providing adequate facility capacity to serve new development. Such documentation shall be available for public inspection at the Office of the Selectmen of the Town of Barrington.

14.3(2) In the case of new development created by the conversion or modification of an existing use, the impact fee assessed shall be computed based upon the net increase in the impact fee assessment for the new use as compared to the highest impact fee that was, or would have been, assessed for the previous use in existence on or after the effective date of this Article.

Comments on 14.5: Formatting - Bullets to numeric indexing; Delete alphabetical indexing (shaded for ease of reference). Word insertions, without altering the meaning of an item, is to make a clearer presentation

14.5 Waivers

The Planning Board may grant full or partial waivers of impact fees where the Board finds that one or more of the following criteria are met with respect to the particular capital facilities for which impact fees are normally assessed. A person may request a full or partial waiver of school facility impact fees for those residential units that lawfully qualify as housing for Older Persons, pursuant to RSA 354-A15, because the housing unit(s) at issue are:

(A) 14.5(1) Provided under any state or federal program that the Secretary of the United States Department of Housing Urban Development (HUD) determines is specifically designed and operated to assist elderly persons as defined in the state or federal or federal program; and the residential units meet either of the following additional qualifications;

14.5(1)(a) The residential units are ~~(B)~~ intended for, and solely occupied by, persons 62 years of age or older; or

14.5(1)(b) The residential units are ~~(C)~~ intended for occupancy by at least one person 55 years of age or older per unit, as further defined by the rules adopted by the State Commission on human rights.

14.5(2) Any change that results in the unit(s) no longer satisfying the above definition for Housing for Older Persons shall require the property owner to come back before the Planning Board for reconsideration of the waiver fee.

14.5(3) The Planning Board may waive an impact fee assessment for a particular capital facility where it finds that the subject property has previously been assessed for its proportionate share of public capital facility impacts, or has contributed payments or constructed capital facility public improvements equivalent in value to the dollar amount of the fee(s) waived.

14.5(4) The Planning Board may waive an impact fee assessment where it finds that, due to conditions specific to a development agreement, or other written conditions or lawful restrictions applicable to the subject property, the development will not increase the demand on the capacity of the capital facility or system for which the impact fee is being assessed.

14.5(5) A fee-payer may request a full or partial waiver of the amount of the impact fee for a particular development based on the results of an independent study of the demand on capital facility capacity and related costs attributable to that development. In support of such request, the fee-payer shall prepare and submit to the Planning Board an independent fee calculation or other relevant study and supporting documentation of the capital facility impact of the proposed development. The independent calculation or study shall set forth the specific reasons for departing from the methodologies and schedules adopted by the town. The Planning Board shall review such study and render its decision. All costs incurred by the town for the review of such study, including consultant and counsel fees, shall be paid by the fee-payer.

Comments on 14.6: Formatting - Assigned indices to body text

14.6 Payment of Impact Fees

14.6(1) No permit shall be issued for new development as defined in this Article until the impact fee has been assessed by the Building Inspector. The Building Inspector shall not issue a certificate of occupancy for the development on which the fee is assessed until the impact fee has been paid in full, or the impact fee has been waived in full by the Planning Board pursuant to the provisions of Subsection F. The Planning Board may accept as payment prior to issuance of a building permit an irrevocable letter of credit or other acceptable payment guarantee.

14.6(2) Where off-site capital improvements have been constructed, or where such improvements will be constructed simultaneously with new development, and where the town has appropriated necessary funds to cover such portions of the work for which it will be responsible, the Building Inspector may collect the impact fee for such capital facilities at the time a building permit or a permit to connect to the public water or public wastewater system is issued.

Comments on 14.7: Formatting - Assign indices to body text

14.7 Appeals from this Article

14.7(1) A party aggrieved by a decision made by the Building Inspector pursuant to the assessment or collection of impact fees authorized by this Article may appeal such decision to the Zoning Board of Adjustment as provided by RSA 676:5, as amended.

14.7(2) The decision of the Zoning Board of Adjustment may be appealed to the Strafford County Superior Court as provided by RSA 677:2-14.

14.7(3) A party aggrieved by a decision of the Planning Board under this Article may appeal such decision to the Strafford County Superior Court as provided by RSA 676:5, III and RSA 677:15, as amended.

Comments on 14.10: Formatting - Assign numeric indices to body text; Bullets to numeric indexing. (Deletions are shown as shaded.)

14.10 Refund of Fees Paid

14.10(1) The current owner of record of property for which an impact fee has been paid shall be entitled to a refund of that fee, plus accrued interest where:

→ **14.10(1)(a)** The impact fee has not been encumbered or legally bound to be spent for the purpose for which it was collected within a period of six (6) years from the date of the full and final payment of the fee. If any capital improvement or capital improvement program for which an impact fee is collected has been commenced either to, or within six years from the date of final collection of an impact fee, that impact fee payment shall be deemed to be encumbered and legally bound to be spent for said capital improvement or capital improvement program and shall not be refunded, even if it is not fully expended within the six year period; or

→ **14.10(1)(b)** Whenever the impact fee calculation has been predicted upon the town, or in the case of school impact fees the Barrington School District, bearing some share of the cost of the capital improvement and the town, or in the case of school impact fees the Barrington School District, within the period of (6) years from the date of the full and final payment of such fee, has failed to appropriate any of its share of related capital improvement costs.

14.10(2) The Board of Selectmen shall provide all owners of record who are due a refund, written notice of the amount due, including accrued interest, if any, and shall promptly cause said refund to be made.

Comments on 14.13: Parse body text into paragraphs and provide index references to the constituent elements.

14.13 Review and Change in Method of Assessment

14.13(1) The methodologies adopted by the Planning Board for impact fee assessment and the related fee schedules, shall be reviewed periodically and amended as necessary by the Planning Board.

- 14.13(2)** Such review shall take place not more than five years from the initial adoption of this Article, nor more frequently than annually, except as required to correct errors or inconsistencies in the assessment formula.
- 14.13(3)** Any proposal for changes in the impact fee assessment methodology or the associated fee schedule shall be submitted to the Board of Selectmen for its review and comment prior to final consideration of the proposed changes by the Planning Board.
- 14.13(4)** The review by the Planning Board and Board of Selectmen may result in recommended changes or adjustments to the methodology and related fees based on the most recent data as may be available.
- 14.13(5)** No change in the methodology or in the impact fee schedules shall be adopted by the Planning Board until it shall have been the subject of a public hearing noticed in accordance with RSA 675:7.

ARTICLE 15 – ZONING ADMINISTRATION

Comments on 15.2.3: Parse body text, assign numeric indices, revise previous reference to the current indexing system.

15.2.3 Criteria for Granting Variances

In accordance with state statute, the Zoning Board of Adjustment is authorized to grant variances from the terms of this Ordinance if the request for said variance conforms to the provisions specified in Subsection 15.1.2 Paragraph (3) above. In addition to these provisions the Board shall also be guided by the following specific criteria in determining whether the granting of a variance is appropriate under the terms of this Ordinance.

15.2.3(1) The Zoning Board of Adjustment shall, when considering a request for a variance, make findings of fact that consider the following factors.

15.2.3(1)(a) Special conditions exist such that literal enforcement of the Ordinance will result in unnecessary hardship to the applicant as defined under applicable law.

15.2.3(1)(b) Granting the variance would be consistent with the spirit of the Ordinance.

15.2.3(1)(c) Granting the variance will not result in diminution of surrounding property values.

15.2.3(1)(d) Granting of the variance would do substantial justice.

15.2.3(1)(e) Granting of the variance would not be contrary to the public interest.

~~(A)~~ **15.2.3(2)** For purposes of this subparagraph, "unnecessary hardship" means that, owing to special conditions of the property that distinguish it from other properties in the area:

~~(i)~~ **15.2.3(2)(a)** No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property; and

~~(ii)~~ **15.2.3(2)(b)** The proposed use is a reasonable one.

~~(B)~~ **15.2.3(3)** If the criteria in subparagraphs ~~(A)~~ 15.2.3(2)(a) and 15.2.3(2)(b) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.

15.2.3(4) The definition of "unnecessary hardship" set forth in ~~subparagraph (4)~~ **paragraph 15.2.3(2)** shall apply whether the provision of the ordinance from which a variance is sought is a restriction on use, a dimensional or other limitation on a permitted use, or any other requirement of the ordinance.

~~(03/08/2011).~~

Comments on 15.3.1: Parse body text into paragraphs & subparagraphs as appropriate and apply numeric indexing.

15.3.1 Zoning Administrator

15.3.1(1) This Ordinance shall be administered by a Zoning Administrator, appointed by the Selectmen for such a term, or for an indefinite term, as the Selectmen may decide.

15.3.1(1)(a) The Zoning Administrator may not be a member of the Planning Board, the Zoning Board of Adjustment, the Conservation Commission or any

other local land use board.

15.3.1(1)(b) All plans for the use or development of land shall be referred to the Zoning Administrator.

15.3.1(2) The Zoning Administrator shall determine in the first instance, in so far as practical, whether or not the proposed use or development complies with the Zoning Ordinance.

15.3.1(3) The Zoning Administrator shall also address other issues regarding the Zoning Ordinance as may be put to the Zoning Administrator from time to time.

15.3.1(4) The decisions of the Zoning Administrator may be appealed to the Zoning Board of Adjustment.

ARTICLE 16 – PLANNED UNIT DEVELOPMENT (PUD)

Comment on 16.2 Minor typo (unnecessary line break) ? – side by side to make edit obvious -

16.2 PUD Permitted

Planned Unit Developments (PUD) are permitted in the TC zoning district. A PUD may also be permitted in the Village District (VD) if the parcel proposed for such use is contiguous to the TC zoning district boundary, or to an existing PUD development, and a Conditional Use Permit is obtained from the Planning Board in accordance with Section 3.4 of this ordinance.

16.2 PUD Permitted

Planned Unit Developments (PUD) are permitted in the Town Center zoning district. A PUD may also be permitted in the Village zoning district if the parcel proposed for such use is contiguous to the TC zoning district boundary, or to an existing PUD development, and a Conditional Use Permit is obtained from the Planning Board in accordance with Section 3.4 of this ordinance.

Comments on 16.3.2:1: Consistent naming of Village District

16.3.1 Minimum Tract Size

The minimum tract size for a PUD in the Town Center (TC) and ~~Village District (VD)~~ **Village (V)** zoning districts shall be ten (10) acres.

Comments on 16.5: Bullets to numeric indexing with some parsing and standard editing as indicated.

16.5 Permitted and Required Uses

16.5(1) A Planned Unit Development may consist of a mix of **three distinct components; a residential component**, a commercial **component**, and civic uses combined with open space **component**. ~~A PUD may include three distinct development components which are:~~

~~○ A commercial component (mandatory inclusion)~~

~~○ A civic center/open space component (mandatory inclusion)~~

~~○ A residential component (optional inclusion).~~

16.5(1)(a) The commercial component and civic center/open space component **are required** ~~must be included~~ as part of all PUD development proposals.

16.5(1)(b) ~~but inclusion of the~~ **The residential component is optional and may be** is included in a PUD proposal at the developer's discretion.

16.5(2) All three of these land use components may be integrated with one another (i.e. civic uses may adjoin commercial or residential uses and need not be on separate tracts of land) however, the percentage of the total tract devoted to each use must comply with the standards noted below.

Article 17 – Workforce Housing

Comments on 17.3.1: : Change the reference to the current indexing.

17.3.1 Districts

Workforce Housing is permitted as a conditional use in the following zoning districts so long as the conditions set forth in ~~Sections V through VII~~ **Sections 17.5 through 17.7** are met.

- 1) Neighborhood Residential
- 2) Village Residential
- 3) General Residential

Comments on 17.3.2: : Change the reference to the current indexing.

17.3.2 Permitted Uses

Single-family, duplex, and multi-family work force housing, for either for sale or rental, is permitted in the zoning districts identified in ~~Section III-A~~ **Subsection 17.3.1** irrespective of whether the specified residential use is permitted in the underlying zoning district.

Comments on 17.3.5: Change the reference to the current indexing.

17.3.5 Notice of Approval

Upon receiving written notice of conditions and restrictions under ~~Paragraph D~~ **Subsection 17.3.4**, the applicant may submit evidence to establish the cost of complying with the conditions and restrictions and the effect on economic viability within the period directed, which shall not be less than 30 days.

17.3.5(1) Upon receipt of such evidence from the applicant, the applicant shall be allowed to review the evidence at the next meeting for which 10 days notice can be given and shall be provided with written notice of the meeting at least 10 days in advance. At such meeting evidence from other sources may be received and considered.

17.3.5(2) After such meeting, any or all conditions or restrictions may be affirmed, altered, or rescinded.

17.3.5(3) Subject to ~~subparagraph (4)~~ **paragraph 17.3.5(4)** a final decision on the application shall not be issued prior to such meeting, unless the applicant fails to submit the required evidence within the period designated by written notice, in which case a final decision may be issued at any time after the expiration of the period in ~~Paragraph E~~ **Subsection 17.3.5**.

17.3.5(4) If an applicant provides written notification at any time that the applicant accepts the conditions and restrictions of approval, a final decision may be issued at any time without further action under ~~Paragraph E~~ **Subsection 17.3.5**.

Comments on 17.3.5: Change the reference to the current indexing.

Comments on 17.4: This seems more consistent with the Interpretation Section. See 1.6(2)

17.4 Definitions–Reserved

(All definitions are moved to article 18)

Comments on 17.5: This is a format only edit. This was voted by the board as presented above. It amounts to no change except insertion of a paragraph indicator, 17.5(1)

The intended presentation was to create an index of 17.5(2) to mark the last sentence of 17.5(1)- “The planning board may allow a reduction of the minimum lot size to accommodate the increased site density”

17.5 Workforce Housing Incentives

17.5.(1) A site plan or subdivision plan which guarantees that at least 20 percent of the total number of units proposed within the development (including all units allowed by density bonuses), shall be reserved as permanent workforce housing units, may be approved with an increase in the density of the site and a reduction of the minimum site frontage. The planning board may allow a reduction of the minimum lot size to accommodate the increased site density.

Comments on 17.6: Formatting – Bullets to numeric indexing & parsing of last bullet into two paragraphs.

17.6. General Requirements of Workforce Housing Units

- **17.6(1)** The affordable units shall be constructed in a manner that is harmonious in appearance with the market rate dwelling units in the proposed development and adjacent neighborhoods and natural surroundings.
- **17.6(2)** The affordable units should be interspersed throughout the overall development, when workforce housing and market rate dwelling units are being constructed within the same development.
- **17.6(3)** The application shall comply with all site plan and/or subdivision regulations that apply, other than those waived hereunder.
- **17.6(4)** When a workforce housing development shall consist of both workforce housing dwelling units and market rate dwelling units, the workforce housing dwelling units shall be made available for occupancy on approximately the same schedule as the development's market rate dwelling units, except that the certificates of occupancy for the last 10 percent of the market rate units shall be withheld until certificates of occupancy have been issued for all the workforce housing units.

17.6(5) A schedule for the phasing of the construction of the total number of units in a project under this Article, to include a schedule setting forth the phasing of the required workforce housing units, shall be established prior to the issuance of a building permit for any workforce housing development.

Comments on 17.7: Formatting - Bullets to indexing

17.7 Assurance of Continued Affordability

In order to qualify as workforce housing under this Article, the developer must make a binding commitment on behalf of him or herself and any successors-in-interest that the workforce housing units will meet the following affordability requirements for a period of not less than 30 years. The affordability requirement shall be enforced through a deed restriction; restrictive covenant; or a contractual arrangement through a local, state or federal housing authority or other non-profit housing trust or agency. The affordability commitment shall include the following:

17.7(1) Workforce housing units shall be sold with deed restrictions and a recorded housing agreement that limit, for a period of at least 30 years, the resale value of the unit to not more than the purchase price plus two times the accumulated consumer price index. (Specify which CPI, location.)

17.7(2) Workforce housing rental units shall limit annual rent increases to the percentage increase in the area median income, except to the extent that greater increases are made necessary by hardship or other unusual conditions. The then-owner of the rental unit must obtain authorization from the planning board prior to instituting such greater increases.

17.7(3) Deed restrictions, restrictive covenants, and contractual arrangements related to a workforce housing development must be referenced on all plans filed with the Barrington Planning Board and recorded with the Strafford County Registry of Deeds.

Comments on 17.8: Formatting - Bullets to numeric indexing.

17.8 Administration, Compliance, and Monitoring

17.8(1) No certificate of occupancy shall be issued for a workforce housing unit until the owner has filed with the planning board confirmation of the rent or price of the workforce housing unit as documented by an executed lease or purchase and sale agreement.

17.8(2) On-going responsibility for monitoring the compliance with resale and rental restrictions on workforce housing units shall be the responsibility of the Town's Planning Board.

17.8(3) The owner of a project containing workforce housing units for rent shall prepare an annual report, due on December 1st, certifying that the gross rents of workforce housing units have been maintained in accordance this Article. Such reports shall be submitted to the Town's planning board

Article 18 – Definitions

Accessibility Ramp: An adaptive feature of a residential or other structure that provides access via an inclined plane. Accessibility ramps are one of a variety of methods used to provide reasonable accommodation allowing a person or persons with a recognized physical disability to reside in or regularly use a structure.

Affordable Housing: Housing with combined rental and utility costs or combined mortgage loan debt services, property taxes, and required insurance that do not exceed 30 percent of a household's gross annual income. (Income: As defined as "Annual Income" by 24 CFR Part 5, Subpart F, and as amended from time to time.)

Convenience Store with Gas Pumps Any retail establishment whose principal activity is offering for sale **such items, by way of illustration and not limitation**, prepackaged food products, household items, newspapers and magazines, and freshly prepared foods, such as salads or sandwiches, for off-site consumption, which also offers the sale of ~~gasoline fuels~~ from pumps ~~for automobiles~~.

Day Care Nursery: See Child Day Care Agency

Family Day Care Home: See Child Day Care Agency

Family Group Day Care Home See Child Day Care Agency

Group Child Day Care Center See Child Day Care Agency

Market Rate Housing: Market Rate Housing: Any unit within a development, whether the unit is to be owner or renter occupied, that is intended to be available for sale or occupancy at the prevailing market value for the area similar to comparable real estate transactions.

Multifamily Housing: For the purpose of workforce housing developments, it is a structure or building containing 5 or more dwelling units, each designed for occupancy by an individual household. [Compare Multifamily Structure (Housing)].

Night Care Agency See Child Day Care Agency

Open Space, Active: See Active Open Space

Open Space, Passive: See Passive Open Space

Preschool Program See Child Day Care Agency

Recreation: The refreshment of body and mind through forms of play, amusement, or relaxation. The recreational experience may be active, by way of illustration and not limitation, boating, fishing, camping, or use of recreational vehicle as such as defined herein or may be passive as in enjoyment of scenic vistas. *(definition added)*

Setback: Unless specifically exempted in this Ordinance, a setback shall mean ~~An~~ an area lying between the furthest projection of a ~~principal~~ **any building or** structure and the property line of the lot on which the **building or** structure is located. Where a yard abuts a street, the setback is the area lying between the abutting street right-of-way line and the furthest projection of **any building or a principal** structure.

Structure (3/8/2010) Anything constructed, installed, placed or erected, whether above or below grade. Unless otherwise stated in this Ordinance, the following structures are exempt from the building permit requirements set forth in Section 15.4.1 and shall not be construed as structures for purposes of setback requirements, but shall be so construed for all other purposes. (a thru e – no change) (f) One story detached accessory structures used as tool and storage sheds, playhouses, and similar uses, providing the floor area does not exceed 420 200 square feet, (g thru m) – no change															
Workforce Housing: Housing that meets the requirements set forth in the definitions of “Workforce housing for rental” and “Workforce housing for sale” herein. Housing developments that exclude minor children from more than 20 percent of the units or in which more than 50 percent of the dwelling units have fewer than two bedrooms shall not constitute workforce housing for the purposes of this Article.															
Workforce housing development: a residential development that is approved under the provisions of this Article 17 of this Ordinance															
Workforce Housing for Rental: Housing which is intended to be leased and is affordable to a household with an income of no more than 60 percent of the median income for a 3 person household for the metropolitan area or county in Strafford County as published annually by the United States Department of Housing and Urban Development.															
Workforce Housing for Sale: housing which is intended for sale and which is affordable to a household with an income of no more than 100 percent of the median income for a 4 person household in Strafford County as published annually by the United States Department of Housing and Urban Development.															
Table 1 Row: Accessory Dwelling Units Columns: GR NR (P) (P)	Row: Accessory Dwelling Units Columns: GR NR P P														
Table 1 (Footnotes) given without a separate line for each note)															
<i>Comments on Table 1: Removes meaningless parentheses from the Permitted symbol. Also, the formatting of the footnotes is slightly altered to provide presentation of each footnote on its own line.</i>															
Table 1 TABLE OF USES ACCESSORY USES <table><tr><td></td><td>GR</td><td>NR</td><td>VD</td><td>TC</td><td>RC</td><td>HCO</td></tr><tr><td>Recreation</td><td>P</td><td>P</td><td>P</td><td>P</td><td>P</td><td>P</td></tr></table> <i>Comments on Table 1: Adds recreation use as an accessory use in all districts</i>			GR	NR	VD	TC	RC	HCO	Recreation	P	P	P	P	P	P
	GR	NR	VD	TC	RC	HCO									
Recreation	P	P	P	P	P	P									